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6 **UNITED STATES DISTRICT COURT**
7 **CENTRAL DISTRICT OF CALIFORNIA**
8 **WESTERN DIVISION**
9

10 UNITED STATES OF AMERICA,)

11 Plaintiff,)

12 v.)

13)
14 JOSE MANUEL AGUIRRE,)

15 Defendant.)
16 _____)
17

No. 90 CR-00766 AWT

**ORDER DENYING PETITION FOR
WRIT OF ERROR CORAM NOBIS**

18 Before the Court is Defendant Jose Manuel Aguirre's *pro se* petition for a
19 writ of error coram nobis, seeking to vacate his 1991 criminal conviction for
20 possession with intent to distribute 44 pounds of marijuana. Aguirre contends that
21 his former defense attorney misled him about the immigration consequences of
22 accepting his plea agreement. Defendant must show the following to qualify for
23 coram nobis relief: "(1) a more usual remedy is not available; (2) valid reasons
24 exist for not attacking the conviction earlier; (3) adverse consequences exist from
25 the conviction sufficient to satisfy the case or controversy requirement of Article
26 III; and (4) the error is of the most fundamental character." *United States v. Riedl*,
27 496 F.3d 1003, 1006 (9th Cir. 2007) (quoting *Hirabayashi v. United States*, 828
28 F.2d 591, 604 (9th Cir. 1987)).

1 Aguirre has not offered any reasons, let alone a valid reason, for delaying
2 nearly 25 years in filing the present petition. Additionally, Aguirre has not
3 demonstrated that he suffers from an adverse consequence satisfying Article III's
4 ripeness requirement. *See City of L.A. v. Lyons*, 461 U.S. 95, 101–02 (1983)
5 (explaining that Article III requires the party seeking relief to “show that he has
6 sustained or is immediately in danger of sustaining some direct injury . . . and the
7 injury or threat of injury must be both real and immediate, not conjectural or
8 hypothetical”). Although deportation may qualify as a sufficient “adverse
9 consequence” for coram nobis purposes, *United States v. Kwan*, 407 F.3d 1005,
10 1012 (9th Cir. 2005), Aguirre does not claim that he is now in removal
11 proceedings. To the contrary, Aguirre states in his petition and accompanying
12 affidavit that he was *not* deported as a result of his conviction.

13 For the reasons stated,

14 **IT IS ORDERED** that the petition for writ of error coram nobis is **DENIED**
15 **without prejudice.**

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17 DATED: December 28, 2015.

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21 A. Wallace Tashima
22 United States Circuit Judge
23 Sitting by Designation
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